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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/090,173

03/06/2002

Michael K. Gunaratnam

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EXAMINER

DIXON, ANNETTE FREDRICKA

ART UNIT

PAPER NUMBER

3771

MAIL DATE

DELIVERY MODE

06/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/090,173	Applicant(s) GUNARATNAM ET AL.	
	Examiner Annette F. Dixon	Art Unit 3771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office Action is in response to the amendment filed on January 5, 2007.

Examiner acknowledges claims 21-70 are pending in this application, with claims 1-20 having been cancelled, and claims 68-70 having been newly added.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 21, 27-32, 39, 41, 47-53, 60, 62-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudolph (6,192, 886).

As to Claims 21, 27, 28, 39, 41, 47, 48, 51, 60, and 62-66, Rudolph discloses a respiratory mask (5) and headgear (the combination of elements 8 and 9) comprising: a respiratory mask (5) having a rigid mask frame (13), adjustable headgear (the combination of elements 8 and 9) for securing said mask on a patient, said headgear

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(the combination of elements 8 and 9) including at least one attachment strap (9), said mask frame (13) having rigidly secured thereto a rigid first connector portion (90), and a second connector portion (10) adapted for releasable mating with said first connector portion, wherein said first and second connector portions (the combination of elements 90 and 10, respectively) form a press-release between said mask frame and said strap. (Column 6, Lines 28-43). Further, Rudolph discloses a plurality of connectors as seen in Figures 1-3). Yet Rudolph does not expressly disclose the first connector portion to be a female connector and the second connector portion to be a male connector. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first connector to be female and attached to the mask and the second connector to be male and attached to the strap, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Further, one of ordinary skill in the art would not expect the rearrangement of parts to adversely affect the effectiveness of the mask to be secured to the patient for operation.

As to Claims 29, 49, 52, and 67, Rudolph discloses a gas delivery conduit (78) attached to the front wall portion of the mask frame. (Figures 1 and 2).

As to Claims 30 and 50, Rudolph discloses a mask frame (13) has a rim (17) for enabling a cushion (33) to be applied. (Figures 1 and 2).

As to Claims 31, 32, and 53, Rudolph discloses the female connector (10) sized to include a button receiving aperture (93) and a strap-receiving slot (94) to enable the

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female connector (10) to be mated with the male connector (90). (Column 6, Lines 28-43).

As to Claims 68-70, Rudolph discloses the first and second connector pieces are resiliently biased to enable rotation around the male connector and to enable the ease of connection and disconnection. (Column 6, Lines 28-43).

5. Claims 22-26, 33-38, 40, 42-46, 54-59, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudolph (6,192, 886) in view of Ferrero et al. (5,657,493).

As to Claims 22, 40, 42, 54, and 61, Rudolph discloses all the recited elements, yet does not expressly disclose the use of a cantilever member with the connector elements. However, at the time the invention was made the use of cantilever members in mask connectors was well known. Specifically, Ferrero teaches the use of a male connector (34) in combination with a female connector (32) wherein the male connector has a cantilever member (the combination of elements 30 and 36) for assisting in the retaining of the mask. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the cantilever member in combination with the male connector on the strap, as taught by Ferrero, for the purpose of retaining the strap and mask on the user.

As to Claims 23-25, 33, and 43-45, Ferrero teaches the cantilever member (the combination of elements 30 and 36) has a leading end (the portion containing element

44), a trailing end (the portion containing element 56) and a release portion (56), and a locking portion (58). (Figures 5-8).

As to Claims 26 and 46, Ferrero teaches the locking portion (58) has at least one lug (49) on a forward surface of the cantilever member (the combination of elements 30 and 36) for engaging the corresponding socket of the first connector portion. (Figures 2, and 5-8).

As to Claims 34, 55, and 57, Rudolph discloses a gas delivery conduit (78) attached to the front wall portion of the mask frame. (Figures 1 and 2).

As to Claims 35 and 56, Rudolph discloses a mask frame (13) has a rim (17) for enabling a cushion (33) to be applied. (Figures 1 and 2).

As to Claims 36, 37, 38, and 58, Rudolph discloses the female connector (10) sized to include a button receiving aperture (93) and a strap-receiving slot (94) to enable the female connector (10) to be mated with the male connector (90). (Column 6, Lines 28-43).

As to Claim 59, Rudolph discloses does not expressly disclose the connector (90) is formed in one piece with the mask frame. Yet, it has been held that the term "integral" is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973).

### ***Response to Arguments***

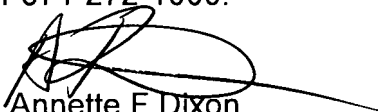
6. Applicant's arguments with respect to claims 21-67 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Annette F. Dixon whose telephone number is (571) 272-3392. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Annette F Dixon  
Examiner  
Art Unit 3771

  
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6/11/07